

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**JUAN MORALES**

Claimant

VS.

**MONFORT, INC.**

Respondent

Self-Insured

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Docket No. 208,815

**ORDER**

Respondent requests review of the preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish dated June 26, 1996, wherein the Judge granted claimant's request for medical benefits.

**ISSUES**

The only issue raised by the respondent on this review is whether claimant provided timely notice of accident as required by K.S.A. 44-520.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds:

The preliminary hearing Order entered by the Administrative Law Judge should be affirmed.

(1) Under K.S.A. 44-534a, as amended, the Appeals Board has the jurisdiction and authority to review a preliminary hearing finding regarding timely notice of accident.

(2) The respondent argues that claimant did not report an injury to his right knee to the respondent's medical department within the time frame set forth by K.S.A. 44-520 and, therefore, contends this claim must be denied. The Appeals Board disagrees. K.S.A. 44-520 provides as follows:

"Except as otherwise provided in this section, proceedings for compensation under the workers compensation act shall not be maintainable unless notice of the accident, stating the time and place and particulars thereof, and the name and address of the person injured, is given to the employer within 10 days after the date of the accident, **except that actual knowledge of the accident by the employer or the employer's duly authorized agent shall render the giving of such notice unnecessary.**" (Emphasis added.)

The evidence is uncontroverted that respondent had actual knowledge of the accident. At the preliminary hearing, claimant's foreman, Manuel Santos, testified that on July 14, 1995, he saw claimant fall on his right knee and helped claimant up, and sent claimant to respondent's medical department for treatment. Because respondent had actual knowledge of the accident through claimant's supervisor, additional notice of accident was unnecessary.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish dated June 26, 1996, should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September 1996.

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BOARD MEMBER

c: Stanley R. Ausemus, Emporia, KS  
Alisa A. Nickel, Dodge City, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director